

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION

ABNER CLARK MACKEY, :  
:   
Plaintiff :  
:   
VS. :  
:   
Warden ALEXIS CHASE, *et al.*, : NO. 7:06-cv-12(HL)  
:   
Defendants : **ORDER**

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On August 29, 2005, plaintiff **ABNER CLARK MACKEY** filed a *pro se* document entitled “Leave to Amend - In Order to Add Defendants and to more Accurately Comply with F.R.C.P. 8,” in civil action number 7:98-cv-93(CAR). On January 25, 2006, Judge C. Ashley Royal denied plaintiff’s motion to amend and directed that it be refiled as a new action. Upon review of plaintiff’s newly converted lawsuit, the undersigned found that plaintiff had more than three previous lawsuits dismissed as frivolous under 28 U.S.C. § 1915(g), and informed plaintiff that unless he paid the entire \$250.00 filing fee within twenty days, his new case would be dismissed. Plaintiff responded by filing a “Motion to Dismiss without Prejudice” (Tab # 6).

Under Rule 41 of the Federal Rules of Civil Procedure, a plaintiff has the absolute right to dismiss his action by filing a notice of dismissal “at any time before service by the adverse party of an answer or of a motion for summary judgment.” Because no defendant has filed an answer or other responsive pleading in this case, plaintiff may dismiss his case. Accordingly, plaintiff’s motion is hereby **GRANTED** and the above-captioned action is deemed **DISMISSED**

**WITHOUT PREJUDICE.**

**SO ORDERED**, this 15<sup>th</sup> day of February, 2006.

s/ **Hugh Lawson**  
HUGH LAWSON  
UNITED STATES DISTRICT COURT

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